

WITNESS AND EXHIBIT RECORD

[illegible]

In United States District Court
For the District of Delaware

UNITED STATES OF AMERICA

Criminal Complaint

v.

CASE NUMBER: 07- 34M-MPT

JOSE D. BEZAREZ,
Defendant

REDACTED

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief. On or about February 26, 2007 in the District of Delaware, Defendant Jose D Bezarez did knowingly:

1) Possess in and affecting interstate commerce, a firearm, after having been convicted on or about

March 22, 2004 for Maintaining a Dwelling for Keeping Controlled Substances
Maintaining a Vehicle for Keeping Controlled Substances

November 3, 1997 for Unlawful Sexual Intercourse 3rd Degree (victim less than 16 YOA)

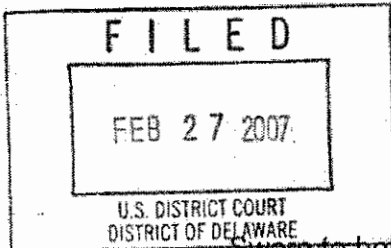
August 11, 1997 Delivery of a Narcotic Schedule II Controlled Substance

all of which are crimes punishable by imprisonment for a term exceeding one year,
in violation of Title 18 United States Code, Section(s) 922(g)(1) and 924(a)(2);

I further state that I am a Special Agent, Bureau of Alcohol Tobacco Firearms and Explosives and that this complaint is based on the following facts:

See attached Affidavit

Continued on the attached sheet and made a part hereof: Yes



Scott C. Curley - Special Agent
Scott C. Curley
Special Agent, ATF

Sworn to before me and subscribed in my presence,

February 27, 2007
Date

at

Wilmington, DE
City and State

Honorable Mary Pat Thyng
United States Magistrate Judge
Name & Title of Judicial Officer

[Signature]
Signature of Judicial Officer

**AFFIDAVIT OF PROBABLE CAUSE IN SUPPORT OF CRIMINAL COMPLAINT
AGAINST JOSE D. BEZAREZ**

1. Your affiant is ATF Special Agent Scott C. Curley. Your affiant has been a law enforcement officer for over 5 years with the U.S. Bureau of Alcohol, Tobacco, and Firearms (ATF). During that time, my duties have included the investigation of federal and state firearms offenses. During the course of your affiant's law enforcement career, your affiant has received law enforcement training on the investigation of firearms offenses on numerous occasions. During the course of your affiant's law enforcement career, your affiant has participated in the seizure of over Seven hundred firearms and has conducted numerous investigations of firearms offenses, as well as numerous conversations about the facts and circumstances of firearms offenses with the investigating officers of those firearms offenses.

2. Unless otherwise stated, the information in this affidavit is based upon your affiant's personal knowledge.

3. The seizure of all the below stated evidence occurred on February 26, 2007, in the City of Wilmington, State and District of Delaware, as stated to me by Wilmington Police Detectives with personal knowledge of the seizure of the below items.

4. Your affiant reviewed the computer criminal history information for the Defendant, JOSE D. BEZAREZ from the Delaware Justice Information System (DELJIS) and learned that the defendant has numerous prior felony convictions as follows:

- a. March 22, 2004 for Maintaining a Dwelling for Keeping Controlled Substances
- b. March 22, 2004 for Maintaining a Vehicle for Keeping Controlled Substances
- c. November 3, 1997 for Unlawful Sexual Intercourse 3rd Degree (victim less than 16 YOA)
- d. August 11, 1997 Delivery of a Narcotic Schedule II Controlled Substance

all of which occurred in the Superior Court of the State of Delaware, and all are crimes punishable by imprisonment for a term exceeding one year.

5. Based upon information stated to me by a Wilmington Delaware Police Detective who has personal knowledge of the below facts, your affiant learned the following.

- a. On February 26, 2007, Wilmington Delaware Police Detectives were conducting surveillance on West 4th Street, Wilmington, Delaware in reference to a homicide that occurred on 02/25/07 in the 1600 block of West 4th Street, Wilmington, Delaware. Detectives observed a White Hispanic male with black nappy hair,

beard, stocky build, black Rock-a-ware jacket, and Muslim style blue jeans, carrying a black plastic shopping bag in his right hand at 4th and Vanburen Streets. Detectives observed a subject who matched the description of one of the homicide suspects. Detectives observed the suspect meet with a black female who came out of the Dollar Land Store and the two walked across the street. The suspect was staring at the officer's unmarked detective vehicle which was occupied by Detectives as he walked across the street. It should be noted that the detective vehicle was behind the suspect in a parking lot. The suspect kept staring at the detective vehicle and began to walk faster east on 4th street. The suspect then walked south on Jackson from 4th Street. The suspect continued walking south on Jackson Street into the 200 block.

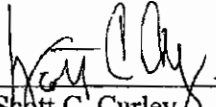
- b. Detectives exited their vehicles and identified themselves as police officers. Detectives instructed JOSE D. BEZAREZ to come over to the vehicle but the suspect continued to walk away. Detectives again repeated to the suspect to come over to the vehicle and the BEZAREZ still did not comply. The suspect then attempted to elude officers and went into an alley way next to a day care. The Detectives noticed that BEZAREZ was reaching towards his waist band. Detectives fearing for their safety and the safety of others drew their guns and ordered the BEZAREZ to stop and place his hands in the air. Detectives gave BEZAREZ repeated commands in both English and Spanish but BEZAREZ did not comply and fled westbound in the alley next to the daycare.
- c. As Detectives closed in on BEZAREZ, the Detectives observed the suspect throw the black plastic bag. The bag tore and a large silver colored object flew up onto the roof area and bounced. The bag fell to the ground Detectives observed that it had contained glass vials that are officers are familiar with being commonly used to package illegal drugs. Detectives eventually took BEZAREZ to the ground and placed him into custody.
- d. The Detectives contacted the Wilmington Delaware Fire Department who responded to the scene with a ladder to gain access to the roof. Detectives searched the roof. The roof was littered with the glass vials and Detectives noticed in the back yard of Wilmington Delaware, the yard at the end of the alleyway of the day care, there was clean, silver in color, large revolver with black grips. The Detectives noted that the ground was wet with snow on the ground but the gun was dry and that there were no footprints in the back yard where the gun was located. Detectives secured the rear yard and the Wilmington Police Department Evidence Detection Unit was notified to collect the gun. The defendant was transported to Wilmington Police Department. Detectives then notified your affiant as protocol for operation FED UP
- e. The firearm which was collected by Wilmington Police Evidence Detection Unit, was a Smith and Wesson model number 629, .44 magnum, serial number BBC2335, silver in color with black grips, which contained (6) live rounds of

Remington brand semi-jacketed ammunition.

- f. A criminal history check was conducted on Jose D. Bezarez and it was found that Bezarez has nine felony convictions, the latest one being on 03/22/2004 in New Castle County Superior Court where he was guilty of Maintaining a Dwelling for the Purpose of Keeping Controlled Substances title 16, Section 4755 (00A5), a class F Felony.

6. I am an ATF Agent who has been expertly trained and experienced in determining the interstate nexus of firearms and ammunition, and have been admitted as such in the United States District Court in and for the District of Delaware. Your affiant personally viewed the firearm and ammunition and knows that they were manufactured in a state other than Delaware, such that its possession in Delaware would have necessarily required that the firearm and ammunition had crossed state lines prior to its possession in Delaware and such that the possession of that firearm and ammunition in Delaware would have affected interstate commerce. Furthermore the recovered ammunition is ammunition as defined in Title 18, United States Code (USC), Chapter 44, Section 921(a)(17)(A). Further more your affiant noticed that the caliber and style of rounds recovered from the firearm, a Smith and Wesson model 629 .44 magnum were consistent with the type and style of bullet recovered from the homicide victim on 02/25/2007.

Wherefore, based upon your affiant's training and experience, your affiant believes that there is probable cause to believe that the defendant violated 18 U.S.C. 922(g) and 924(a)(2) by possessing in and affecting interstate commerce a firearm, after having previously been convicted of a felony crime punishable by imprisonment for a term exceeding one year and respectfully requests that the Court issue a Criminal Complaint charging that offense.

 SIA - ATF

Scott C. Curley
Special Agent, ATF

Sworn to and subscribed in my presence
this 27 day of February, 2007



Honorable Mary Pat Thyne
United States Magistrate Judge
District of Delaware

